

MAE News

Newsletter from the Office of Monitoring, Audit and Enforcement Maine Workers' Compensation Board

Fall 2014

Volume 10, Number 3



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Executive Director/Chair

Office of Monitoring,
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Maine Workers'
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Compliance Training for Employers/Insurers

Open training sessions for 2015 have been scheduled for January 29-30, April 23-24, June 25-26, and October 29-30, all held at the Maine Department of Labor, 45 Commerce Drive in Augusta. Please contact Anne Poulin to reserve a spot at any of these sessions.

The Board continues to be busy performing on-site training for insurers, self-insurers, and third party administrators. If you would like information about on-site training for your organization, please contact Gordon Davis.

Training modules are also available on the Board's website by clicking on "Training Modules" on the right side of the Board's home page.

From the Office of Executive Director Inpatient Facility Fee Schedule

The Board has updated its inpatient fee schedule for dates of discharge on or after October 1, 2014. The fees are based on version 32 of the US Federal Government's DRG Grouper for FY 15 and are available on the Board's website at: www.maine.gov/wcb/index.html. Maximum allowable payments are as published in the fee schedule. In the event of a dispute regarding the published amount, the listed relative weight times the base rate controls.

The remainder of the annual update (professional and outpatient facility fees) will be posted as soon as it becomes available for dates of service on or after January 1, 2015. Questions or concerns regarding the annual update may be addressed to Kimberlee Barriere at Kimberlee.Barriere@Maine.Gov.

From the Claims Management Unit Weekly Benefit Tables

Weekly benefit tables for 2013 and 2014 have been posted to the Board's website at: www.maine.gov/wcb/departments/Claims/index.htm. Please note that these tables are available in electronic format only and are to be used exclusively for coordination of benefits calculations for dates of injury on or after January 1, 2013.

In determining the after-tax amount for the coordination of benefits calculations pursuant to Title 39-A M.R.S.A. Section 221, remember that the amounts in the tables are 80% after tax, so if you are calculating a 100% after tax offset, the table amount must be multiplied by 1.25.

If you have any questions regarding the weekly benefit tables, please contact Debbie Morton at (207) 287-7053 or Debbie.Morton@Maine.Gov.

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Post-Injury Income and Section 221

Section 221 of the Act provides a credit to employers for payments made pursuant to a "wage continuation plan". Pursuant to Maine Law Court decision *Gendreau v. Tri-Community Recycling*, the test for determining whether employer-paid benefits are a "wage continuation plan" is whether "the essential purpose and character of the benefits are for wage replacement during a period of work-related incapacity".

It is generally understood that sick leave benefits qualify as a wage continuation plan and are therefore subject to offset. The question then is whether other forms of post-injury income such as severance pay, holiday pay, vacation pay, etc. also qualify as wage continuation and are therefore also subject to offset.

The determination whether a certain form of post-injury income qualifies as a wage continuation plan for purposes of Section 221 must be made on a case-by-case basis. As the party seeking the benefit of the offset, and as the party with the superior access to information concerning the nature of its benefit program, the employer bears the burden of proof to establish that the post-injury income qualifies as a "wage continuation plan" for purposes of Section 221.

From the Office of Medical/Rehabilitation Services Medical Denials

Pursuant to Chapter 5, Section 1.04, the employer/insurer shall pay the health care provider's usual and customary charge or the maximum allowable payment under the Medical Fee Schedule, whichever is less, within 30 days of receipt of a properly coded bill unless the bill or previous bills from the same health care provider or the underlying injury has been controverted or denied. Further, if an employer/insurer controverts whether a health care provider's bill is reasonable and proper under Section 206 of the Act, the employer/insurer shall send a copy of the notice of controversy to the health care provider.

As a reminder, the instructions for completing the WCB-9, Notice of Controversy (NOC) form require the employer/insurer to include the name and contact information of the health care provider if the denial is controverting whether a health care provider's bill is reasonable and proper under Section 206.

Also, please do not file denials for medical items and services which are not separately reimbursable under the medical fee schedule. For example, under the outpatient facility fee schedule there is no separate payment for items and services with a status indicator of N or services with no CPT[®]/HCPCS.

For those employers/insurers that rely on a third party to re-price its medical bills, the claim adjuster needs to be familiar with how medical items and services are reimbursed under the medical fee schedule so the adjuster knows whether the re-pricer is recommending a zero allowance in accordance with the fee schedule (no NOC required) or if the zero allowance indicates that an item or service is being denied as not reasonable or proper (NOC required).